THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.26771 OF 1995

ORDER:

This writ petition is filed seeking a declaration that the order passed by the 2nd respondent-Revenue Divisional Officer, Sangareddy, dated 13.9.1994, as confirmed by the 1st respondent-Joint Collector, Medak, by order dated 30.10.1995, as arbitrary and illegal.

On a petition filed by the writ petitioner for grant of occupancy rights under the A.P. (T.A) Abolition of Inams Act, 1955 (for short "the Act"), in respect of Ac.11.21 guntas and 2.32 guntas of land situated in Sy.Nos.35 and 36, respectively, in Ginyarpally village of Jhrasangam mandal, the 2nd respondent initiated enquiry under Section 10 of the Act. In response to the notices issued under Rule 6(1) of the rules inviting claims and objections from the interested persons, two persons viz., Erappa S/o Veerappa and Govindamma W/o Veerappa, submitted their objections.

It was the case of the writ petitioner that he married one Bichamma and gave birth to a son by name Ramachander. However, he also married one Govindamma D/o Kalamma of Giniyarpalli village and went to Giniyarpalli village as an illatom-son-in-law. Kalamma was the inamdar and during her life time and thereafter, he was cultivating the land and continued in possession of the land in question. Thus, he claimed occupancy rights in respect of the said land.

On the other hand, it was contended by the respondents that Smt. Kamalamma, who was the original inamdar, expired leaving behind his son Bichanna and daughter Govindamma. Since Bichanna died issueless, Govindamma is the only legal heir, and thus Govindamma and her son alone are entitled to grant of occupancy rights. Both the parties produced evidence in support of their

respective claims. The Revenue Divisional Officer, on appreciation of the material on record, held that Smt Kalamma was the inamdar and that she was in possession and enjoyment of the land till 1984-85. Hence, the patta in respect of the said land shall be granted in favour of Smt. Govindamma, who was the only legal heir of the original inamdar.

Aggrieved by the same, the writ petitioner preferred an appeal before the Joint Collector. After hearing both the parties, the 1st respondent dismissed the appeal confirming the findings recorded by the Revenue Divisional Officer. Hence, this writ petition.

I have heard the learned counsel for both the parties and perused the material on record.

It is not in dispute that Smt. Kalamma, was the inamdar. It is also not in dispute that the 3rd respondent-Smt. V. Govindamma, who is the daughter of Kalamma is the only surviving legal heir of the inamdar. The only contention raised by the writ petitioner is that since he was in exclusive possession and enjoyment of the land in question, during the life time of Kalamma and continued even after her death, he acquired absolute rights and, thus he is entitled for grant of occupancy rights under the Act. He also claimed title basing on a will said to have been executed by the inamdar.

Though, the fact that the 3rd respondent herein is the 2nd wife of the writ petitioner is not disputed, it is contended by the respondents 3 and 4 that the petitioner has been living separately along with his first wife and children and that he has nothing to do with the land in question. Having considered the documents produced by both the parties, the respondents 1 and 2 recorded clear findings that the 3rd respondent – Govindamma is the only legal heir and that she is also continuing in possession and, therefore, she alone is entitled for the grant of occupancy rights. As a matter of fact, the 3rd respondent also filed an application for grant of occupancy rights. Though the writ petitioner pleaded that Govindamma was given in adoption to the

sister of Kalamma and therefore she cannot claim to be the legal heir of the inamdar, in the absence of any material to establish the said plea, the same was disbelieved by the respondents 1 and 2. As rightly observed by the 1st respondent, the said plea of the writ petitioner runs counter to his own version that having married the 3rd respondent, he had gone to Giniyarpalli village as an illatom son-in-law. In the circumstances, as rightly held by the respondents 1 and 2, being the only surviving legal heir of inamdar, the 3rd respondent alone is entitled for grant of occupancy certificate. Since the will said to have been executed by the inamdar, on which the petitioner relied upon, was disputed by the respondents 3 and 4, it is for the petitioner to establish title, if any, acquired by him by working out appropriate remedy as available under law. The respondents 1 and 2 have rightly declined to take into consideration the said will, which was disputed by the rival claimants.

For the aforesaid reasons, the concurrent findings recorded by the respondents 1 and 2, do not suffer from any infirmity.

Accordingly, the writ petition is dismissed. No costs.

_____

(G. ROHINI, J.)

19th September, 2006.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.26771 OF 1995

19th September, 2006.

Between:

Erappa. .. Petitioner.

And

The Joint Collector, Medak district at
Sangareddy and others. .. Respondents.